

### **IC 2-3.5-3**

#### **Chapter 3. Legislators' Retirement System**

### **IC 2-3.5-3-1**

#### **Application of chapter; election**

Sec. 1. (a) This chapter applies to:

- (1) each member of the general assembly who is serving on April 30, 1989, and who files an election under subsection (b); and
- (2) each member of the general assembly who is elected or appointed after April 30, 1989.

(b) A member of the general assembly who is serving on April 30, 1989, may elect to have the member's years of service in the general assembly covered by this chapter, IC 2-3.5-4, and IC 2-3.5-5 instead of IC 5-10.2, IC 5-10.3, and IC 21-6.1. An election under this subsection:

- (1) must be made in writing;
- (2) must be filed with the PERF board on a form prescribed by the board;
- (3) must be made before January 1, 1990; and
- (4) is irrevocable.

(c) Notwithstanding subsection (b), if a member of the general assembly files an election under subsection (b), the PERF board or the TRF board shall include all of the member's years of service in the general assembly in the determination of eligibility for benefits under PERF or TRF. However, except as provided by IC 2-3.5-1-2(b), the PERF board or TRF board shall not include in the computation of benefits from PERF or TRF the member's:

- (1) salary as a member of the general assembly received after April 30, 1989; or
- (2) years of service as a member of the general assembly after April 30, 1989.

*As added by P.L.6-1989, SEC.1. Amended by P.L.4-1990, SEC.1.*

### **IC 2-3.5-3-2**

#### **Establishment; content; funds; administration**

Sec. 2. (a) The legislators' retirement system is established. The system consists of the legislators' defined benefit plan described in IC 2-3.5-4 and the legislators' defined contribution plan described in IC 2-3.5-5.

(b) The following funds are established:

- (1) The fund for the legislators' defined benefit plan.
- (2) The fund for the legislators' defined contribution plan.

Each of the funds shall be administered by the PERF board. Each of the funds is a trust, separate and distinct from all other entities, maintained for the purpose of paying benefits to participants and their beneficiaries and paying the costs associated with administering the plan.

(c) The PERF board shall adopt rules under IC 4-22-2 necessary for the administration of the plans and funds described in subsections (a) and (b).

*As added by P.L.6-1989, SEC.1.*

### **IC 2-3.5-3-3**

#### **Qualification requirements**

Sec. 3. The legislators' retirement system shall satisfy the qualification requirements in Section 401 of the Internal Revenue Code, as applicable to the system. In order to meet those requirements, the system is subject to the following provisions, notwithstanding any other law:

(1) The PERF board shall distribute the corpus and income of the funds to participants and their beneficiaries in accordance with this chapter, IC 2-3.5-4, and IC 2-3.5-5.

(2) No part of the corpus or income of the funds may be used for or diverted to a purpose other than the exclusive benefit of the participants and their beneficiaries.

(3) Forfeitures arising from severance of employment, death, or for any other reason may not be applied to increase the benefits a participant would otherwise receive under this chapter, IC 2-3.5-4, and IC 2-3.5-5.

(4) If the system is terminated, or if all contributions to the system are completely discontinued, the rights of each affected participant to the benefits accrued at the date of termination or discontinuance, to the extent then funded, are nonforfeitable.

(5) All benefits paid from the system shall be distributed in accordance with the requirements of Section 401(a)(9) of the Internal Revenue Code and the regulations under that section. In order to meet those requirements, the funds are subject to the following provisions:

(A) The life expectancy of a participant, the participant's spouse, or the participant's beneficiary may not be recalculated after the initial determination for purposes of determining benefits.

(B) If a participant dies before the distribution of the participant's benefits has begun, distributions to beneficiaries must begin no later than December 31 of the calendar year immediately following the calendar year in which the member died.

(C) The amount of an annuity paid to a participant's beneficiary may not exceed the maximum determined under the incidental death benefit requirement of the Internal Revenue Code.

(6) The PERF board may not:

(A) determine eligibility for benefits;

(B) compute rates of contribution; or

(C) compute benefits of participant's beneficiaries;

in a manner that discriminates in favor of participants who are considered officers, supervisors, or highly compensated, as prohibited under Section 401(a)(4) of the Internal Revenue Code.

(7) Benefits paid under this chapter, IC 2-3.5-4, and IC 2-3.5-5 may not exceed the maximum benefits and contributions specified by Section 415 of the Internal Revenue Code. If a participant's benefits under this chapter, IC 2-3.5-4, and IC 2-3.5-5 would exceed those maximum benefits and contributions, the benefit

payable under IC 2-3.5-4 shall be reduced as necessary.

(8) The salary taken into account under this chapter, IC 2-3.5-4, and IC 2-3.5-5 may not exceed the applicable amount under Section 401(a)(17) of the Internal Revenue Code.

(9) The PERF board may not engage in a transaction prohibited by Section 503(b) of the Internal Revenue Code.

*As added by P.L.6-1989, SEC.1. Amended by P.L.4-1990, SEC.3.*

### **IC 2-3.5-3-4**

#### **PERF board; powers and duties**

Sec. 4. (a) The PERF board shall administer the system, which may be commingled with the PERF fund for investment purposes.

(b) The PERF board shall:

(1) determine eligibility for and make payments of benefits under this chapter, IC 2-3.5-4, and IC 2-3.5-5;

(2) in accordance with the powers and duties granted in IC 5-10.3-3-7, IC 5-10.3-3-7.1, IC 5-10.3-3-8, and IC 5-10.3-5-3 through IC 5-10.3-5-6, administer the system; and

(3) provide by rule for the implementation of this chapter, IC 2-3.5-4, and IC 2-3.5-5.

(c) A determination by the PERF board may be appealed under IC 4-21.5.

(d) The powers and duties of:

(1) the director and the actuary of the PERF board;

(2) the treasurer of state;

(3) the attorney general; and

(4) the auditor of state;

with respect to the fund are those specified in IC 5-10.3-3 and IC 5-10.3-4.

(e) The PERF board may hire additional personnel, including hearing officers, to assist in the implementation of this chapter.

*As added by P.L.6-1989, SEC.1. Amended by P.L.5-1990, SEC.1.*

### **IC 2-3.5-3-5**

#### **Rollover of eligible distributions**

Sec. 5. Notwithstanding any other provision of this article, to the extent required by Internal Revenue Code Section 401(a)(31), as added by the Unemployment Compensation Amendments of 1992 (P.L. 102-318), and any amendments and regulations related to Section 401(a)(31), the legislators' defined benefit plan and the legislators' defined contribution plan shall allow participants and qualified beneficiaries to elect a direct rollover of eligible distributions to another eligible retirement plan.

*As added by P.L.10-1993, SEC.1.*

### **IC 2-3.5-3-6**

#### **Administration; service credit and benefits**

Sec. 6. (a) Notwithstanding any provision of this article, the legislator's retirement system shall be administered in a manner consistent with the Family and Medical Leave Act of 1993 (29 U.S.C. 2601 et seq.). A member on a leave of absence that qualifies for the

benefits and protections afforded by the Family and Medical Leave Act is entitled to receive credit for vesting and eligibility purposes to the extent required by the Family and Medical Leave Act, but is not entitled to receive credit for service for benefit purposes.

(b) Notwithstanding any provision of this article, a participant is entitled to service credit and benefits in the amount and to the extent required by the Uniformed Services Employment and Reemployment Rights Act (38 U.S.C. 4301 et seq.).

*As added by P.L.5-1997, SEC.1.*